

REMARKS/ARGUMENTS

In the Office action dated August 20, 2008, the Examiner made final the rejection of claims, 1 and 3-7, all of the claims pending in the Application, under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,784,843 to Greer *et al.* in view of U.S. Patent No. 5,794,392 to Forslund, III *et al.*

In the Specification, no changes.

In the Claims, claims 1, 4 6 and 7 are amended.

The Invention

The invention is for a mixed-use building structure, and more specifically a structure which includes, immediately and independently, over a selected lower floor, such as, but not necessarily, a ground-level floor, an overhead sub-story, *i.e.*, a story of less-than full height H_2 , that accommodates a utilities-conduit bypass for the immediate lower floor and immediate upper floor having full plate heights P_H . This bypass provides the internal volume wherein the lower floor can be defined by a full, unoccluded plate-height P_H , which, in turn, allows for the lower-level occupancy early in the process of building construction. Plate-height in this space, *i.e.*, that vertical dimension (P_H) in the space which extends from floor plane to ceiling plane, also referred to as a continuum, is unoccluded in the sense that no utilities-conduit structures, such as water pipes, gas lines, electrical conduits, etc., ever extend directly into the space, or through the ceiling plane, in the context of providing utility services to building floors which are above that lower-level story. It should be understood that the structure of the invention includes (1) full-height stories and (2) less-than-full-height sub stories; all vertically stacked above one another.

The sub-story provides an independent utilities containment space, eliminating the need for such utilities to occupy space in the full-height spaces.

The Applied Art

U.S. Patent No. 5,784,843 to Greer *et al.* describes use of raised floor under modular cubicles wherein utilities are run on the conventional floor under the raised floor of a conventionally designed and fabricated building, hereinafter '843.

U.S. Patent No. 5,794,392 to Forslund, III *et al.* describes another utility distribution system for use in a conventionally designed and fabricated building, hereinafter '392.

The Claims

There are four independent claims: claims 1, 4, 6 and 7. All of these claims recite, in slightly different manners, the provision of at least two full plate-height (P_H) stories in a building and a sub-story having a height (H_2) less than that of the full plate-height. The sub-story is a utility conduit containment space. The stories are vertically stacked, with the sub-story being located intermediate the two full plate-height stories. Also recited is that the sub-story does not occupy any portion of the full plate-height story. Alternately stated, H_2 does not diminish P_H . Finally, the claims 1 and 7 have been amended to recite that P_H extends between a floor elevation and a ceiling elevation wherein such elevations are coincident with beams in the building frame.

Neither '843 nor '392 teach or suggest this construction.

With respect to claims 1 and 6, the Examiner contends that '843 describes use of floor and ceiling for utilities and that such space represents less than a full plate-height area, however, such use of the floor and ceiling do not meet the limitation that the sub-story not occupy

any portion of the full plate-height story. Thus, '843 does not teach nor suggest Applicant's construction. Likewise, '392 describes use of a raised floor, which also occupies a portion of the full plate-height story. Thus, claims 1 and 6 are allowable over the applied references, which do not teach the requisite sub-story which is less than a full plate-height and which does not occupy any portion of a full plate-height story to which utilities are provided. The Examiner apparently believes that the plate height extends from the top of the raised floor to some upper structure, which is likely a dropped ceiling. The independent claims have been amended to clarify that the plate height extends from a floor plane to a ceiling plane, which would readily be understood by one of ordinary skill in the art to be those planes of the primary structural floor and ceiling, not the planes of a raised floor/dropped ceiling.

This is clear from '843, wherein the primary structural floor 27 is referred to as "the floor" and raised floor 13 is referred to as "the raised floor." '843, col 7, line 35 through col. 8, line 5. Raised floor 13 is subsequently referred to in '843 as the "floor system" to distinguish between the raised floor and the structural floor.

Likewise, '392 clearly distinguishes between a building floor 3 and floor construction 2, which is a raised floor. '392, col. 5, lines 31-40.

It is thus abundantly clear to the inventors of the applied references that there is a substantial difference between a building, structural floor and a raised floor. The Examiner has made what is at best an unreasonable interpretation of the applied art in rejecting Applicant's claims. Claims 1 and 6, as amended, clearly define a full plate height space and a sub-story, which do not occupy any portion of each other's space. Additionally, the floor and ceiling are recited as

being coincident with the building frame beams, which certainly eliminates the use of the raised floors of the references. Both '843 and '392 utilize raised floors which arguably have a height H_2 , however, both references have H_2 values which diminish the value of P_H for those references.

Claims 1 and 6 are allowable over the applied art.

Claim 3 is allowable with its allowable parent claim.

Claim 4 also includes the limitation that the sub-story not occupy any portion of the full plate-height story - both of the applied references teach raised floors or lowered ceilings, which occupy a portion of the full plate-height story, and thus do not teach nor suggest Applicant's construction. Claim 4 is allowable over the applied art.

Claim 5 recites the provision of a water-impervious lining to prevent liquid drainage into a lower story. The Examiner contends that, because '392, at col. 8, lines 32-40, states that the floor pans are made from metal or plastic, that this provides the requisite water impervious lining, and further alleges that connector bridges 29 somehow cure this sieve-like defect. The Examiner is still incorrect. There is no teaching in '392 that the floor pans are sealed to one another to be water-impervious. The cited portion of '843 suggests otherwise, in that the floor pans are stated to be conformal to an uneven floor, suggesting that the edges thereof are not fixed to one another. The Examiner is reading far more into the references than is warranted by the references, taken alone or in combination. While the plastic or metal components are likely water impervious, the seams therebetween are not taught by the references to be sealed against water movement. One of ordinary skill in the art will certainly recognize that, in the usual and customary fabrication of raised floors, there is no seal between the components thereof because of

the need frequently to remove panels and move utilities under the raised floor. Claim 5 is clearly allowable over the applied art and the Examiner's broadening of the teachings thereof.

Claim 7 includes the full plate-height - sub story plate-height limitations as well as the water-impervious limitation of claim 5, and is therefor allowable for the reasons set forth in connection with claims 1, 4, 5 and 6.

The Examiner continues to rely on Wikipedia, in spite of the fact that, when an Applicant cites that source, the U. S. Patent and Trademark Office dismisses the source as unreliable. Still, the examiner is correct that it is known that large building have utility floors, which are not defined anywhere as being of less than full plate height. Applicant's construction allows for sub-stories which are not full plate-height. Thus the Wikipedia reference is no more relevant than the two applied references.

The Examiner's statement that the claims read on drop ceilings and raised floors is simply wrong: A drop ceiling or a raised floor occupies a portion of the full plate-height of a building story: the claims require that the sub-story NOT occupy any portion of a full plate-height story.

In light of the foregoing remarks, the Examiner is respectfully requested to reconsider the rejections and objections state in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an

extension of time under 37 C.F.R. § 1.136. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

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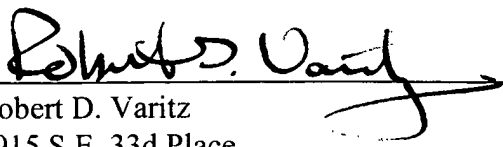
Respectfully Submitted,

ROBERT D. VARITZ, P.C.

Registration No: 31436

Telephone: 503-720-1983

Facsimile: 503-233-7730


Robert D. Varitz
4915 S.E. 33d Place
Portland, Oregon 97202

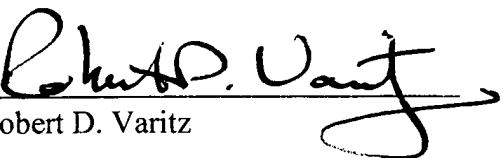
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Alexandria, Virginia 22313-1450


Robert D. Varitz